

HOUSE BILL NO. 476

INTRODUCED BY MCALPIN, FACEY, GROESBECK, CAMPBELL, DICKENSON, BIXBY, HARRIS, RASER,
WANZENRIED, BRANAE, COHENOUR, HENRY, HINER, CALLAHAN, BUZZAS, WINDHAM, EATON,
BERGREN, CAFERRO, KAUFMANN, LENHART, GALVIN-HALCRO, NOONAN, DOWELL, GUTSCHE,
JUNEAU, SMALL-EASTMAN, BECKER, CLARK, LINDEEN, FUREY, MATTHEWS, GALLIK, DRISCOLL

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE MARRIAGE LICENSE FEE AND THE FEE FOR
FILING A DECLARATION OF MARRIAGE WITHOUT SOLEMNIZATION TO FUND DOMESTIC AND SEXUAL
VIOLENCE VICTIMS' SERVICES; ESTABLISHING A DOMESTIC VIOLENCE INTERVENTION PROGRAM;
PROVIDING THAT THE BOARD OF CRIME CONTROL ADMINISTER GRANTS UNDER THE PROGRAM;
ESTABLISHING A DOMESTIC VIOLENCE INTERVENTION ACCOUNT; AMENDING SECTIONS 25-1-201,
40-1-202, AND 40-1-311, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Domestic violence intervention account -- administration by board of crime control. (1) There is a domestic violence intervention account in the state special revenue fund in the state treasury. There must be paid into this account the designated filing fees paid under 25-1-201(7) to the ~~board of crime control for the purpose of administering [sections 1 through 4]~~ CLERK OF THE DISTRICT COURT. The money deposited in the account must be used for services provided under [section 2].

(2) Funds deposited in the account may be expended by the Montana board of crime control, as provided for in 2-15-2006, to fund services and activities under and payment of administrative costs of the domestic violence intervention program provided for in [section 2].

NEW SECTION. Section 2. Domestic violence intervention program. (1) The Montana board of crime control shall use the money in the domestic violence intervention account established by [section 1] to fund a domestic violence intervention program to provide grants to communities for misdemeanor probation officers or compliance officers to monitor compliance with sentencing requirements for offenders convicted of the offense of partner or family member assault under 45-5-206 or of a violation of an order of protection under 45-5-626.

(2) In administering the domestic violence intervention program, the Montana board of crime control

1 shall:

- 2 (a) identify priorities for funding services, activities, and criteria for the receipt of program funds;
3 (b) monitor the expenditure of funds by organizations receiving funds under this section;
4 (c) evaluate the effectiveness of services and activities under this section; and
5 (d) adopt rules necessary to implement [sections 1 through 4].
6

7 **NEW SECTION. Section 3. Program costs.** The costs incurred by the Montana board of crime control
8 in administering the domestic violence intervention program must be paid with money from the domestic violence
9 intervention account established by [section 1]. The board may use up to 10% of the money deposited in the
10 account for administrative costs. The board shall keep costs to a minimum and shall use the board's existing
11 office space, personnel, equipment, and supplies to the extent possible.
12

13 **NEW SECTION. Section 4. Restriction on use of funds.** Funds deposited in the domestic violence
14 intervention account may be used only for the program authorized in [section 2] and the costs authorized under
15 [section 3] and may not be used to pay the expenses of any other program or service administered in whole or
16 in part by the Montana board of crime control or the department of justice.
17

18 **Section 5.** Section 25-1-201, MCA, is amended to read:

19 **"25-1-201. Fees of clerk of district court.** (1) The clerk of district court shall collect the following fees:

- 20 (a) at the commencement of each action or proceeding, except a petition for dissolution of marriage,
21 from the plaintiff or petitioner, \$90; for filing a complaint in intervention, from the intervenor, \$80; for filing a
22 petition for dissolution of marriage, \$160; for filing a petition for legal separation, \$150; and for filing a petition
23 for a contested amendment of a final parenting plan, \$120;
24 (b) from each defendant or respondent, on appearance, \$60;
25 (c) on the entry of judgment, from the prevailing party, \$45;
26 (d) (i) except as provided in subsection (1)(d)(ii), for preparing copies of papers on file in the clerk's
27 office, \$1 a page for the first 10 pages of each file, for each request, and 50 cents for each additional page;
28 (ii) for a copy of a marriage license, \$5, and for a copy of a dissolution decree, \$10;
29 (e) for each certificate, with seal, \$2;
30 (f) for oath and jurat, with seal, \$1;

(g) for a search of court records, \$2 for each name for each year searched, for a period of up to 7 years, and an additional \$1 for each name for any additional year searched;

(h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts, the fee for entry of judgment provided for in subsection (1)(c);

(i) for issuing an execution or order of sale on a foreclosure of a lien, \$5;

(j) for transmission of records or files or transfer of a case to another court, \$5;

(k) for filing and entering papers received by transfer from other courts, \$10;

(l) for issuing a marriage license, ~~\$30~~ \$50 ~~\$43~~;

(m) on the filing of an application for informal, formal, or supervised probate or for the appointment of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from the applicant or petitioner, \$70, which includes the fee for filing a will for probate;

(n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative of the estate of a nonresident decedent, \$55;

(o) for filing a declaration of marriage without solemnization, ~~\$30~~ \$50 ~~\$43~~;

(p) for filing a motion for substitution of a judge, \$100;

(q) for filing a petition for adoption, \$75.

(2) Except as provided in subsections (3) and (5) through (7), fees collected by the clerk of district court must:

~~—— (a) prior to July 1, 2003, be forwarded to the department of revenue for deposit in the state general fund; and~~

~~—— (b) after June 30, 2003, be deposited in the state general fund as specified by the supreme court administrator.~~

(3) (a) Of the fee for filing a petition for dissolution of marriage, \$5 must be deposited in the children's trust fund account established in 52-7-102, \$9 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714, and \$30 must be deposited in the partner and family member assault intervention and treatment fund established in 40-15-110.

(b) Of the fee for filing a petition for legal separation, \$5 must be deposited in the children's trust fund account established in 52-7-102 and \$30 must be deposited in the partner and family member assault intervention and treatment fund established in 40-15-110.

(4) If the moving party files a statement signed by the nonmoving party agreeing not to contest an

1 amendment of a final parenting plan at the time the petition for amendment is filed, the clerk of district court may
2 not collect from the moving party the fee for filing a petition for a contested amendment of a parenting plan under
3 subsection (1)(a).

4 ~~(5) Through June 30, 2003, the clerk of district court shall remit to the credit of the special revenue~~
5 ~~account established in 42-2-105 \$70 of the filing fee required in subsection (1)(q).~~

6 ~~(6)(5)~~ Of the fee for filing an action or proceeding, except a petition for dissolution of marriage, \$9 must
7 be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714.

8 ~~(7)(6)~~ The fees collected under subsections (1)(d), (1)(g), and (1)(j) must be deposited in the county
9 district court fund. If a district court fund does not exist, the fees must be deposited in the county general fund
10 for district court operations.

11 (7) Of the fee for issuance of a marriage license and the fee for filing a declaration of marriage without
12 solemnization, \$20 \$13 must be deposited in the domestic violence intervention account established by [section
13 1].

14 (8) Any filing fees, fines, penalties, or awards collected by the district court or district court clerk not
15 otherwise specifically allocated must be deposited in the state general fund."
16

17 **Section 6.** Section 40-1-202, MCA, is amended to read:

18 **"40-1-202. License issuance.** When a marriage application has been completed and signed by both
19 parties to a prospective marriage and at least one party has appeared before the clerk of the district court and
20 paid the marriage license fee of ~~\$30 \$50 \$43~~, the clerk of the district court shall issue a license to marry and a
21 marriage certificate form upon being furnished:

22 (1) satisfactory proof that each party to the marriage will have attained the age of 18 years at the time
23 the marriage license is effective or will have attained the age of 16 years and has obtained judicial approval as
24 provided in 40-1-213;

25 (2) satisfactory proof that the marriage is not prohibited; and

26 (3) a certificate of the results of any medical examination required by the laws of this state."
27

28 **Section 7.** Section 40-1-311, MCA, is amended to read:

29 **"40-1-311. Declaration of marriage without solemnization.** (1) Persons desiring to consummate a
30 marriage by written declaration in this state without the solemnization provided for in 40-1-301 ~~must~~ shall, prior

1 to executing the declaration, secure the medical certificate required by this chapter, which ~~shall~~ must be firmly
2 attached to the declaration and ~~shall~~ must be filed by the clerk of the district court in the county where the
3 contract was executed.

4 (2) A declaration of marriage must contain substantially the following:

5 (a) the names, ages, and residences of the parties;

6 (b) the fact of marriage;

7 (c) the name of father and maiden name of mother of both parties and address of each;

8 (d) a statement that both parties are legally competent to enter into the marriage contract.

9 (3) The declaration must be subscribed by the parties and attested by at least two witnesses and
10 formally acknowledged before the clerk of the district court of the county.

11 (4) The fee for filing a declaration is ~~\$30~~ ~~\$50~~ \$43 and ~~shall~~ must be paid to the clerk at time of filing."
12

13 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 4] are intended to be
14 codified as an integral part of Title 44, chapter 4, part 3, and the provisions of Title 44, chapter 4, part 3, apply
15 to [sections 1 through 4].
16

17 **COORDINATION SECTION. SECTION 9. COORDINATION INSTRUCTION.** IF BOTH SENATE BILL NO. 67 AND
18 [THIS ACT] ARE PASSED AND APPROVED, THEN THE AMENDMENTS TO 25-1-201 IN BOTH SENATE BILL NO. 67 AND [THIS
19 ACT] ARE VOID AND 25-1-201 MUST READ AS FOLLOWS:

20 **"25-1-201. Fees of clerk of district court.** (1) The clerk of district court shall collect the following fees:

21 (a) at the commencement of each action or proceeding, except a petition for dissolution of marriage,
22 from the plaintiff or petitioner, \$90; for filing a complaint in intervention, from the intervenor, \$80; for filing a
23 petition for dissolution of marriage, \$160; for filing a petition for legal separation, \$150; and for filing a petition
24 for a contested amendment of a final parenting plan, \$120;

25 (b) from each defendant or respondent, on appearance, \$60;

26 (c) on the entry of judgment, from the prevailing party, \$45;

27 (d) (i) except as provided in subsection (1)(d)(ii), for preparing copies of papers on file in the clerk's
28 office, \$1 a page for the first 10 pages of each file, for each request, and 50 cents for each additional page;

29 (ii) for a copy of a marriage license, \$5, and for a copy of a dissolution decree, \$10;

30 (e) for each certificate, with seal, \$2;

(f) for oath and jurat, with seal, \$1;

(g) for a search of court records, \$2 for each name for each year searched, for a period of up to 7 years, and an additional \$1 for each name for any additional year searched;

(h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts, the fee for entry of judgment provided for in subsection (1)(c);

(i) for issuing an execution or order of sale on a foreclosure of a lien, \$5;

(j) for transmission of records or files or transfer of a case to another court, \$5;

(k) for filing and entering papers received by transfer from other courts, \$10;

(l) for issuing a marriage license, ~~\$30~~ \$53;

(m) on the filing of an application for informal, formal, or supervised probate or for the appointment of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from the applicant or petitioner, \$70, which includes the fee for filing a will for probate;

(n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative of the estate of a nonresident decedent, \$55;

(o) for filing a declaration of marriage without solemnization, ~~\$30~~ \$53;

(p) for filing a motion for substitution of a judge, \$100;

(q) for filing a petition for adoption, \$75.

(2) Except as provided in subsections (3) and (5) through (7), fees collected by the clerk of district court must:

~~(a) prior to July 1, 2003, be forwarded to the department of revenue for deposit in the state general fund; and~~

~~(b) after June 30, 2003, be deposited in the state general fund as specified by the supreme court administrator.~~

(3) (a) Of the fee for filing a petition for dissolution of marriage, \$5 must be deposited in the children's trust fund account established in 52-7-102, \$9 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714, and \$30 must be deposited in the partner and family member assault intervention and treatment fund established in 40-15-110.

(b) Of the fee for filing a petition for legal separation, \$5 must be deposited in the children's trust fund account established in 52-7-102 and \$30 must be deposited in the partner and family member assault intervention and treatment fund established in 40-15-110.

(4) If the moving party files a statement signed by the nonmoving party agreeing not to contest an amendment of a final parenting plan at the time the petition for amendment is filed, the clerk of district court may not collect from the moving party the fee for filing a petition for a contested amendment of a parenting plan under subsection (1)(a).

~~(5) Through June 30, 2003, the clerk of district court shall remit to the credit of the special revenue account established in 42-2-105 \$70 of the filing fee required in subsection (1)(q).~~

~~(6)~~(5) Of the fee for filing an action or proceeding, except a petition for dissolution of marriage, \$9 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714.

~~(7)~~(6) The fees collected under subsections (1)(d), (1)(g), and (1)(j) must be deposited in the county district court fund. If a district court fund does not exist, the fees must be deposited in the county general fund to be used for district court operations.

(7) Of the fee for issuance of a marriage license and the fee for filing a declaration of marriage without solemnization, \$13 must be deposited in the domestic violence intervention account established by [section 1 of House Bill No. 476] and \$10 must be deposited in the county district court fund. If a district court fund does not exist, the fees must be deposited in the county general fund to be used for district court operations.

(8) Any filing fees, fines, penalties, or awards collected by the district court or district court clerk not otherwise specifically allocated must be deposited in the state general fund."

COORDINATION SECTION. SECTION 10. COORDINATION INSTRUCTION. IF BOTH SENATE BILL NO. 67 AND [THIS ACT] ARE PASSED AND APPROVED, THEN THE AMENDMENTS TO 40-1-202 IN BOTH SENATE BILL NO. 67 AND [THIS ACT] ARE VOID AND 40-1-202 MUST READ AS FOLLOWS:

"40-1-202. License issuance. When a marriage application has been completed and signed by both parties to a prospective marriage and at least one party has appeared before the clerk of the district court and paid the marriage license fee of ~~\$30~~ \$53, the clerk of the district court shall issue a license to marry and a marriage certificate form upon being furnished:

(1) satisfactory proof that each party to the marriage will have attained the age of 18 years at the time the marriage license is effective or will have attained the age of 16 years and has obtained judicial approval as provided in 40-1-213;

(2) satisfactory proof that the marriage is not prohibited; and

(3) a certificate of the results of any medical examination required by the laws of this state."

1
2 COORDINATION SECTION. SECTION 11. COORDINATION INSTRUCTION. IF BOTH SENATE BILL NO. 67 AND
3 [THIS ACT] ARE PASSED AND APPROVED, THEN THE AMENDMENTS TO 40-1-311 IN BOTH SENATE BILL NO. 67 AND [THIS
4 ACT] ARE VOID AND 40-1-311 MUST READ AS FOLLOWS:

5 **"40-1-311. Declaration of marriage without solemnization.** (1) Persons desiring to consummate a
6 marriage by written declaration in this state without the solemnization provided for in 40-1-301 ~~must~~ shall, prior
7 to executing the declaration, secure the medical certificate required by this chapter, which ~~shall~~ must be firmly
8 attached to the declaration and ~~shall~~ must be filed by the clerk of the district court in the county where the
9 contract was executed.

10 (2) A declaration of marriage must contain substantially the following:

11 (a) the names, ages, and residences of the parties;

12 (b) the fact of marriage;

13 (c) the name of father and maiden name of mother of both parties and address of each;

14 (d) a statement that both parties are legally competent to enter into the marriage contract.

15 (3) The declaration must be subscribed by the parties and attested by at least two witnesses and
16 formally acknowledged before the clerk of the district court of the county.

17 (4) The fee for filing a declaration is ~~\$30~~ \$53 and ~~shall~~ must be paid to the clerk at time of filing."
18

19 NEW SECTION. Section 12. Effective date. [This act] is effective July 1, 2005.

20 - END -